

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

01/22/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2001-000384

FILED: _____

STATE OF ARIZONA

JENNIFER E GREEN

v.

SEIJI R FUJIMOTO

JEREMY PHILLIPS

GILBERT CITY COURT
REMAND DESK CR-CCC

MINUTE ENTRY

GILBERT CITY COURT

Cit. No. #54922

Charge: A. DUI
B. BAC OVER .10
C. UNSAFE LANE USAGE

DOB: 05/15/68

DOC: 02/05/00

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

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This matter has been under advisement since the time of Oral Argument on January 7, 2002. This decision is made within 30 days as required by Rule 9.8, Maricopa County Superior Court Local Rules of Practice. This Court has considered and reviewed the record of the proceedings from the Gilbert City Court, the argument and Memoranda submitted by counsel.

The only issue raised by the Appellant concerns the ruling by the trial court on February 7, 2001 admitting statements of the Appellant and denying Appellant's Motion in Limine to preclude those statements on the basis of an alleged deficient *corpus delicti*.

In Arizona the requirement of *corpus delicti* as a prerequisite for the admission of a confession requires that the prosecution present evidence from which a "reasonable inference"¹ may be made "that a certain result has been produced and that someone is criminally responsible for that result."² And, the reasonable inference supporting *corpus delicti* can be proved through circumstantial evidence alone.³

Appellant argues the "certain result" must be a criminal act. Appellant's contention is not supported by relevant Arizona case law.⁴

The trial judge made excellent, detailed findings of fact in this case:

The testimony of the arresting officer at the hearing is essentially undisputed (footnote omitted). The arresting officer was dispatched to the scene of a one vehicle

¹ State v. Gerlaugh, 137 Ariz. 164, 170, 654 P.2d 800, 806 (1982).

² State ex. rel. McDougall v. Superior Court (Plummer, Real Party in Interest), 188 Ariz. 147, 149, 933 P.2d 1215, 1217 (App. 1996), quoting and citing, State v. Gillies, 135 Ariz. 500, 506, 662 P.2d 1007, 1013 (1983).

³ State v. Gerlaugh, supra.

⁴ See, State v. Gillies, supra; State v. Wilson, 113 Ariz. 145, 548 P.2d 23 (1976).

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accident. When he arrived at the scene, he saw a vehicle facing eastbound on the westbound side of the raise median. Two tires were blown out. There were black marks on the median consistent with the damage to the vehicle. The officer saw the Defendant standing within 10 to 20 feet of the vehicle right in the roadway itself. The surrounding area consisted of open fields and no other civilians were in the area. A vehicle registration check revealed that the car was registered to the (Appellant). Upon contacting the (Appellant), the officer noticed an odor of alcohol and six out of six clues of Horizontal Gaze Nystagmus. During the investigation, the (Appellant) admitted that he was driving the vehicle. ...

Unlike the facts of Fair (citation omitted), but like the facts of Wilson (citation omitted), when the officer arrived on the scene he saw the (Appellant) standing in the roadway close to the vehicle. Similar to the facts of Plummer (citation omitted), no one other than the (Appellant) was present and the (Appellant) showed obvious signs of alcohol impairment. Furthermore, the (Appellant) can reasonably connected to the vehicle by the registration, which, because it was in his own name, provides a stronger inference than the registration in Fair (citation omitted).⁵

The trial court's conclusions are supported by the record. Most importantly, the trial judge noted that no one other than Appellant was present at the scene of the one car accident and Appellant showed obvious signs of alcohol impairment. These observations were made prior to Appellant's statements to the police officer. These facts provide a strong inference that the

⁵ Trial court's order re: Defendant's Motion in Limine (*corpus delicti*) in case number 00-TR1519,20DU, dated February 7, 2001, at page 1, 3.

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accident was more than a mere accident: it was the result of an impaired and intoxicated driver losing control of his vehicle. The only person, one could infer, that could reasonably have driven Appellant's vehicle, was Appellant himself.

IT IS THEREFORE ORDERED affirming the trial court's order denying Appellant's Motion in Limine (*re corpus delicti*).

IT IS FURTHER ORDERED affirming the judgments of guilt and sentences imposed.

IT IS FURTHER ORDERED remanding this matter back to the Gilbert City Court for all further and future proceedings.